

NOTICE

Decision filed 01/14/14. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2014 IL App (5th) 120255-U

NO. 5-12-0255

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Monroe County.
	)	
v.	)	Nos. 12-CF-18 & 12-CM-44
	)	
CHRISTOPHER STEWART,	)	Honorable
	)	Dennis B. Doyle,
Defendant-Appellant.	)	Judge, presiding.

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PRESIDING JUSTICE WELCH delivered the judgment of the court.  
Justices Goldenhersh and Cates concurred in the judgment.

**ORDER**

¶ 1 *Held:* The trial court did not abuse its discretion in denying the defendant's motion to withdraw his guilty plea where the defendant could not demonstrate that a manifest injustice occurred under the facts involved.

¶ 2 The defendant, Christopher Stewart, appeals from the denial of his motion to withdraw his guilty plea to aggravated battery (720 ILCS 5/12-3.05 (West 2012)), based on allegations that he accosted his aunt's boyfriend with a knife. He contends that the trial court erred in denying his motion, as a manifest injustice occurred because there is doubt as to his guilt, he has a meritorious defense to the charge, and the ends of justice would be better served by submitting the case to a trial. We affirm the judgment of the trial court.

¶ 3 On February 28, 2012, the defendant was charged with aggravated battery of Cody Clines, his aunt's boyfriend at the time of the incident. At a preliminary hearing held on March 22, 2012, the defendant agreed to plead guilty to the charge in exchange for 30 months' probation and time served. The defendant's counsel stated that he had not seen any

discovery, but that both the defendant and the defendant's grandmother, an eyewitness to the incident, had indicated to him that the defendant's actions were in self-defense. Despite his counsel's recommendation that he not plead guilty, the defendant indicated that he wanted to accept the State's offer in exchange for his guilty plea.

¶ 4 The defendant stated that he suffered from a mental illness, but that he had not taken medication for its treatment for two or three years, and that his illness did not affect his ability to understand his actions. The defendant stated that he did not know why the alleged conduct was aggravated rather than nonaggravated battery, but he knew that the maximum penalty was two to five years in prison, and that his counsel, this early in the proceeding and without the benefit of discovery, could not be fully informed as to possible defenses. The defendant stated that the fact that he would immediately be released from jail had no effect on his decision to accept the State's offer. The court reminded the defendant that his counsel had recommended that he wait for access to evidence before making a decision on pleading guilty. The defendant replied that "[he] want[ed] to plead guilty."

¶ 5 The trial court stated the agreement on the record, and the defendant and his counsel indicated that was their understanding of the bargain. The court admonished the defendant as to the nature of the charge and the minimum and maximum sentences. The court also admonished the defendant of his right not to plead guilty, his right to a trial, and his right to confront the witnesses against him. The defendant agreed that no one had threatened or coerced him into pleading guilty, and that no one had made him any promises in exchange for the plea. He stated that he was not under the influence of drugs, he was a high school graduate, and he had no prior felonies.

¶ 6 The State provided a factual basis for the charge, stating that a trial would include testimony describing a verbal altercation between the defendant and victim, 20-year-old Cody Clines. The argument escalated when the defendant armed himself with a 12-inch long bread

knife and swiped at the victim, causing a cut on the top of the victim's left hand. The defendant agreed that this was his understanding of the evidence that the State would present at trial. The defendant's counsel indicated that the defendant had told him a different version of the events.

¶ 7 The court asked the defendant if he understood that self-defense is a valid defense to an aggravated battery charge, to which the defendant responded that he did. When asked to describe self-defense, the defendant replied that it was "when I have fear for myself and [need to] protect myself." The defendant stated that he understood that if a jury or judge decided that he was indeed using self-defense at the time of the incident, it was possible that he would be found not guilty of the charge, and also that he cannot raise this defense if he pleads guilty. When the court then asked the defendant why he wanted to plead guilty at that time, rather than wait for his attorney to review the evidence, the defendant replied that he "honestly don't see [self-defense] going anywhere." After another reminder from the court that a guilty plea meant that the defendant was telling the court "that [he] committed this offense and that [he was] not acting in self-defense," the defendant pled guilty. The court accepted the plea and imposed the agreed-upon sentence.

¶ 8 On April 19, 2012, the defendant filed a motion to withdraw his guilty plea, arguing that he did not fully understand the charges against him, he did not fully understand the defense of self-defense and how it could be used in his favor at trial, and that he did have a defense to the offense charged, as he was acting in self-defense. At a May 17, 2012, hearing on the motion, the defendant's counsel argued that there was doubt as to the defendant's guilt because he was acting in self-defense, and that the ends of justice would be better served in submitting the case to a trial because the defendant was young, he had some mental disability and was unmedicated at the time of the plea, and he did not understand why the battery was aggravated rather than nonaggravated. The State responded that the court went through the

defendant's plea with him at length, and that there was no evidence that the defendant did not understand the charge or his possible defense to the charge. The State noted that the defendant's choice to plead guilty instead of waiting in jail for a period of time in order to make a self-defense argument that he felt was "honestly not going anywhere" was the defendant's decision to make. The court stated that it "did as good a job as possible at the time in exploring all these issues," and that nothing had changed except the defendant's desire to plead not guilty. The court noted that it would render meaningless all the discussion and admonitions that were given at the plea hearing if the defendant was allowed to simply change his mind and have a trial on the reinstated charge. The court found that based on the defendant's admission and guilty plea, there was a sufficient basis for the judgment to be entered. The court denied the defendant's motion to withdraw his guilty plea. The defendant appeals.

¶ 9 The defendant argues that the trial court abused its discretion when it denied his motion to withdraw the plea. In particular, he contends that there is doubt as to his guilt, that he has a meritorious defense, as there is evidence that he was acting in self-defense, and that the ends of justice would be better served by submitting the case to trial, as he was young, he had no prior felonies, and he rushed into pleading guilty without knowing the evidence against him in order to secure immediate release from jail.

¶ 10 A defendant does not have an automatic right to withdraw a guilty plea. *People v. Feldman*, 409 Ill. App. 3d 1124, 1127 (2011). Rather, the burden is on the defendant to demonstrate that a manifest injustice occurred under the facts involved, such as "if it appears that (1) the plea was entered on a misapprehension of the facts or the law, (2) there is doubt as to the guilt of the accused, (3) the accused has a meritorious defense, or (4) the ends of justice will be better served by submitting the case to a jury." (Internal quotation marks omitted.) *Id.* This court will only disturb a trial court's denial of a motion to withdraw a

guilty plea if we find that the decision was an abuse of discretion. *Id.* An abuse of discretion will be found only where the trial court's ruling is arbitrary, fanciful, unreasonable, or where no reasonable person would take the view adopted by the trial court. *People v. Caffey*, 205 Ill. 2d 52, 89 (2001).

¶ 11 Here, we cannot say that the decision of the trial court was arbitrary or unreasonable. First, the defendant's allegation that there is doubt as to his guilt or he was acting in self-defense is soundly rebutted by the record of his plea hearing. The defendant's guilty plea is a knowing admission of guilt of the criminal acts charged and all the material facts alleged in the charging instrument (*People v. Rhoades*, 323 Ill. App. 3d 644, 651 (2001)), and a court can accept a guilty plea from a defendant who proclaims his innocence as long as the record reflects a factual basis from which the defendant could be found guilty. *People v. Murphy*, 248 Ill. App. 3d 42, 47 (1993). The factual basis provided by the State, which the defendant stated that he understood would be the evidence used at his trial, included evidence that the argument escalated when the defendant armed himself with a knife. Use of deadly force in self-defense is justified only where a person reasonably believes that such force is necessary to prevent imminent death or severe bodily harm, and the person threatened must not be the aggressor. 720 ILCS 5/7-1, 7-4 (West 2012); *People v. Berry*, 175 Ill. App. 3d 420, 426 (1988). Any evidence that the defendant felt threatened with death or severe harm by the confrontation is rebutted by his own statements. Though the defendant states that his grandmother would testify that he was acting in self-defense during the incident, at his hearing, he defined self-defense to the court's satisfaction, told the court that he did not see that defense going anywhere, and stated that he understood that self-defense would not be an available argument if he pled guilty. Moreover, the evidence shows that the defendant escalated the verbal argument by arming himself; as the aggressor, he cannot claim self-defense. In short, the record does not reflect doubt as to his guilt or a meritorious self-

defense argument.

¶ 12 The defendant also alleges that due to a combination of factors—that he did not understand the meaning of "aggravated" in the charge, that he was young, that he had no prior criminal record, and that his desire to get out of jail clouded his judgment at the time of the hearing—the ends of justice would be better served by allowing withdrawal of the plea. The record, however, supports the trial court's findings to the contrary. The ultimate question is whether the plea was entered knowingly and voluntarily. *People v. Manning*, 371 Ill. App. 3d 457, 459 (2007). The trial court fully explored any mental health issues that the defendant was facing, and the defendant expressed his understanding of all the court's admonishments. The record clearly rebuts the defendant's contention that his desire for immediate release from jail was clouding his judgment, as he expressly told the court that it had no bearing on his decision. The defendant also notes that he pled guilty without a preliminary hearing, before his attorney had the benefit of discovery; however, the defendant was well aware of this fact at his hearing, and still indicated his desire to plead guilty. Overall, the record of the defendant's hearing reflects a knowing and voluntary plea of guilty to the charge.

¶ 13 It is well settled that a defendant may not withdraw his guilty plea merely because he misjudged the strength of the State's case. *People v. Frascella*, 81 Ill. App. 3d 794, 797-98 (1980). Based on the record before us, we find that the defendant cannot demonstrate that a manifest injustice occurred when the trial court denied the defendant's motion to withdraw his plea. Since we cannot say that the finding of the trial court was arbitrary or unreasonable, we find that the trial court's denial of the motion was not an abuse of discretion.

¶ 14 Affirmed.